



# In the Supreme Court of the State of Nevada

# FILED

NOV 27 2000

## INDICATE FULL CAPTION:

Donte Johnson,

Appellant(s),

vs.

The State of Nevada,

Respondent(s).

No. 36991

BY

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
DEPUTY CLERK

## DOCKETING STATEMENT CRIMINAL APPEALS

(Including pretrial and post-conviction habeas corpus, and petitions for post-conviction relief)

## GENERAL INFORMATION

- Judicial District Eighth County Clark  
Judge Jeffrey Sobel District Ct. Docket No. C153154
- If the defendant was given a sentence,
  - what is the sentence? Ct. I - a minimum of forty (40) months to a maximum of one hundred eighty (180) months in the Nevada State Prison; ct. II - a minimum of sixteen (16) months to a maximum of seventy-two (72) months to run consecutive to ct. I; ct. III - a minimum of forty (40) months to a maximum of one hundred eighty (180) months plus
  - has the sentence been stayed pending appeal? No. a consecutive minimum of forty (40) months to
  - was defendant admitted to bail pending appeal? No. a maximum of one hundred eighty (180) months to run consecutive to ct. II; (over)
- Was trial or post-conviction counsel appointed XX or retained.....?

### 4. Attorney filing this docketing statement:

Attorney Dayvid J. Figler Telephone 455-6265  
Firm Clark County Special Public Defender  
Address 309 South Third Street, 4th Floor  
Las Vegas, Nevada 89155  
Client(s) Donte Johnson

If this is a joint statement by multiple appellants, add the names and addresses of other counsel on an additional sheet accompanied by a certification that they concur in the filing of this statement.

### 5. Attorney(s) representing respondent(s):

Attorney Stewart L. Bell Telephone 455-4843  
Firm Clark County District Attorney  
Address 200 South Third Street  
Las Vegas, Nevada 89155  
Client(s) The State of Nevada

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_  
Client(s) \_\_\_\_\_

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DEPUTY CLERK

(Add additional counsel on separate sheet if necessary)

00-20612

6. Nature of disposition below

- ☐ Judgment after bench trial
- ☒ Judgment after jury verdict
- ☐ Judgment upon guilty plea
- ☐ Grant of pretrial motion to dismiss
- ☐ Parole/Probation revocation
- ☐ Motion for new trial
  - ☐ grant    ☐ denial
- ☐ Motion to withdraw guilty plea
  - ☐ grant    ☐ denial

- ☐ Grant of pretrial habeas
- ☐ Grant of motion to suppress evidence
- ☐ Post-conviction relief (NRS ch. 177)
  - ☐ grant    ☐ denial
- ☐ Post-conviction habeas (NRS ch. 34)
  - ☐ grant    ☐ denial
- ☐ Other disposition (specify).....

7. Does this appeal raise issues concerning any of the following:

- ☒ death sentence
- ☐ life sentence
- ☐ juvenile offender
- ☐ pretrial proceedings

8. Expedited appeals: The court may decide to expedite the appellate process in this matter. Are you in favor of proceeding in such manner?

Yes.....No.....X.....

9. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal (e.g., separate appeals by co-defendants, appeal after post-conviction proceedings):

Johnson v. State, Nevada Supreme Court case 36093;  
Johnson v. State, Nevada Supreme Court case 36461.

10. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., habeas corpus proceedings in state or federal court, bifurcated proceedings against co-defendants):

N/A

11. Nature of action. Briefly describe the nature of the action and the result below:

The Defendant was charged by an Indictment with count I - burglary, ct. II - conspiracy to commit robbery and/or kidnapping and/or murder, ct. III - robbery with use of a deadly weapon, count IV - robbery with use of a deadly weapon, ct. V - robbery with use of a deadly weapon, ct. VI - robbery with use of a deadly weapon, ct. VII - first degree kidnapping with use of a deadly weapon, ct. VII - first degree kidnapping with use of a deadly weapon, ct. VII - first degree kidnapping with use of a deadly weapon, ct. VII - first degree kidnapping with use of a deadly weapon, ct. VIII - first degree kidnapping with use of a deadly weapon, ct. IX - first degree kidnapping with use of a deadly weapon, ct. X - first degree kidnapping with use of a deadly weapon, ct. XI through ct. XIV - first degree murder with use of a deadly weapon. After a trial by jury, Defendant was convicted on all counts.

12. No Merit Appeal. If appellant was the defendant below, does counsel intend to file an affidavit of no merit appeal pursuant to Anders v. California, 386 U.S. 738 (1967) and Sanchez v. State, 85 Nev. 95, 450 P.2d 793 (1969)?

Yes.....No.....XX.....

13. **Issues on appeal.** State completely the principal issue(s) in this appeal:

1. Constitutionality of the three judge panel for a penalty determination in light of Aprendi.
2. Whether or not the two visiting judges were required to review the entirety of the trial transcripts.
3. Whether the court erred in denying the Defendant's motion to suppress based on an unlawful warrantless search.
4. Whether the court erred in limiting voir dire examination of potential jurors fitness to serve on a capital jury.
5. Whether the court erroneously allowed jurors who should have been excluded pursuant to Witherspoon to remain on the jury.
6. Whether it was juror misconduct to violate the admonition of the court when certain jurors viewed media accounts of the trial during the course of the trial.
7. Other issues to be determined after a thorough review of the Record on Appeal.

14. **Constitutional issues.** If this appeal challenges the constitutionality of a statute, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

N/A.....XX.....Yes.....No.....

If not, explain.....  
.....

15. **Issues of first-impression or of public interest.** Does this appeal present a substantial legal issue of first-impression in this jurisdiction or one affecting an important public interest?

First-impression: Yes.....XX.....No.....

Public interest: Yes.....XX.....No.....

16. **Length of trial.** If this action proceeded to trial in the district court, how many days did the trial last?

.....14.....days

17. **Oral argument.** Would you object to submission of this appeal for disposition without oral argument?

Yes.....X.....No.....

**TIMELINESS OF NOTICE OF APPEAL**

18. Date district court announced decision, sentence or order appealed from.....10/3/00.....

19. Date of entry of written judgment or order appeal from.....10/9/00.....

(a) If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

20. If this appeal is from an order granting or denying a petition for a writ of habeas corpus, indicate the date written notice of entry of judgment or order was served.....

(a) Was service by delivery or by mail.....(specify).

21. If the time for filing the notice of appeal was tolled by a post-judgment motion,

(a) Specify the type of motion, and the date of filing of the motion:

Arrest judgment.....Date filed.....

New trial.....Date filed.....

(newly discovered evidence)

New trial.....Date filed.....

(other grounds)

(b) Date of entry of written order resolving motion.....

22. Date notice of appeal filed...11/8/00.....

23. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(b), NRS 34.710, NRS 34.815, NRS 177.015(2), or other.....NRAP 4(b) 15(3).....

### SUBSTANTIVE APPEALABILITY

24. Specify statute, rule or other authority which grants this court jurisdiction to review the judgment or order appealed from:

NRS 177.015(1)(b).....

NRS 177.015(2).....

NRS 177.055.....

NRS 177.385.....

NRS 34.710(3).....

NRS 34.710(4).....

NRS 34.815

Other (specify).....NRS 177.015(3).....

### VERIFICATION

I certify that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief.

Donte Johnson.....

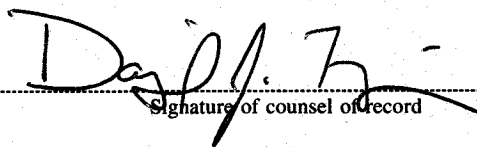
Name of appellant

11/21/00.....

Date

Dayvid J. Figler.....

Name of counsel of record



Signature of counsel of record

**CERTIFICATE OF SERVICE**

2000

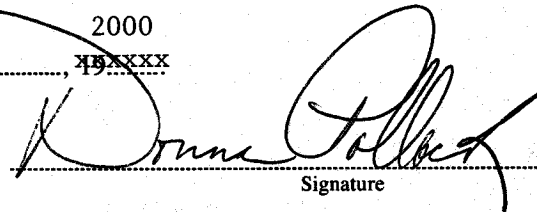
I certify that on the 21st day of November, ~~19~~<sup>20</sup>~~XXX~~, I served a copy of this completed docketing statement upon all counsel of record:

☒ by personally serving it upon him/her; or District Attorney's Office; Appellate Section

☐ by mailing it by first class mail with sufficient postage prepaid to the following address(es):

Dated this 21st day of November, ~~19~~<sup>20</sup>~~XXX~~

2000

  
Signature